

IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES

v.

MANNING, Bradley E., PFC

U.S. Army, xxx-xx-(b) (6)

Headquarters and Headquarters Company, U.S.

Army Garrison, Joint Base Myer-Henderson Hall,

Fort Myer, VA 22211

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**DEFENSE ORIGINAL
CLASSIFICATION AUTHORITY
INTERROGATORIES**

DATED: 26 October 2012

Pursuant to Rule for Courts-Martial (R.C.M.) 702(g)(2), the Defense submits the following questions to be asked of each of the relevant Original Classification Authorities (OCAs). The Defense requests that the responses by the relevant OCAs be provided to the Court and Defense no later than 16 November 2012.

Classification Review of Charged Documents

Prior Classification Reviews

What does a classification review entail?

How many classification reviews did your agency do in:

2010?

2011?

2012? (not including the classification review in this case)

How many documents were reviewed in each case?

How many people worked on each review?

When was each review begun? Completed?

How many man hours were spent on each review?

Communication Between OCA and Trial Counsel

Did you personally speak to any of the trial counsel in this case?

If yes, how many times?

If yes, when?

Did you personally have any written communications with the trial counsel in this case?

If yes, how many times?

If yes, when? Please provide documentation.

Initial Communications

When did trial counsel in this case first approach you or your organization about a classification review in the case of *United States v. Manning*?

How did trial counsel first approach you? (e.g. email, phone, meeting)

What did the trial counsel ask you to do or tell you at this first encounter?

When did trial counsel first ask you to complete a classification review?

First Request for Classification Review

How did trial counsel first ask you to complete a classification review? If a written request, please provide documentation.

What did trial counsel ask you to do?

Concerning this first request, did trial counsel give you a suspense date for completing the classification review process?

If yes, what was that date?

If no,

Did you request a suspense date?

Did you provide an approximate time line on how long you thought the process would take?

Did trial counsel ask for an approximate time line on how long you thought the process would take?

Was there any discussion of timing? If yes, what did it entail?

Did the trial counsel mention the issue of speedy trial? If so, how?

What was the date on which you began the process of completing a classification review?

What were you told by trial counsel about the role of the classification review in the legal proceedings?

Did trial counsel ever tell you to take your time with the classification review because they were not ready to proceed with the Article 32?

Legal Counsel for OCA

Was legal counsel for your Agency involved in any aspect of the classification review process?

If so,

Explain how.

Did legal counsel ever mention the issue of timing or speedy trial?

Logistics of Classification Review For Charged Documents

How many charged documents were you asked to review as part of the classification review process for *United States v. Manning*? (Include only those documents that you reviewed and referenced in your final report; do not include any documents that you may have reviewed for other purposes).

Who specifically worked on the classification review? Please provide a list of names and their respective positions, and the time period that they were asked to work on the classification review.

How did you choose who would work on the classification review?

Did any of the people who you selected to work on the classification review need to get clearances to work on the review?

If so, how long did this take?

If you delegated any part of the classification review to others, what did you tell your delegates about the timing of the classification review and when it needed to be completed?

Do you have any email or written documentation regarding the instructions you gave to your delegates about the timing of the classification reviews? If yes, please provide.

Did your delegates provide you with daily updates on their progress? If so, how did they provide these daily reports? If written, please provide documentation.

Did your delegates provide you with weekly updates on their progress? If so, how did they provide these weekly reports? If written, please provide documentation.

Did your delegates provide you with monthly updates on their progress? If so, how did they provide these monthly reports? If written, please provide documentation.

If you delegated a portion of the review to others, list all the ways that you kept yourself informed on what was being done for the classification review process.

What portion of each of the delegates' job was devoted to this classification review? (e.g. 30%, 50%). Please list for each person involved.

Did you (or your delegates) work on the classification review every day until the time the classification review was submitted to the trial counsel?

Did you (or your delegates) work on weekends? If so, which weekends?

Did you (or your delegates) work on holidays? If so, which holidays?

On average, how many hours per week in total did you (or your delegates) work on the classification review?

Do you have timesheets for who worked on the classification reviews and for how long?

How many total hours did you and/or your delegates take to complete the classification review? Specifically:

You:

Your delegates (specify by person):

Once you had completed your review, how long did it take you or your delegates to prepare the report for submission to trial counsel?

Trial Counsel Inquiries On Status of Classification Review for Charged Documents

Did trial counsel ask for updates on where you were in the process of completing the classification review? (Note: this question does not ask whether trial counsel made further requests, but rather whether they made status inquiries) If so, how and when did they ask? If in written form (e.g. email, letter, memo), please provide documentation.

Did trial counsel ever ask you how much longer the process would take? If so, how and when did they ask? If in written form (e.g. email, letter, memo), please provide documentation.

Did trial counsel ever ask you what specifically was taking so long? If so, how and when did they ask? If in written form (e.g. email, letter, memo), please provide documentation.

Did trial counsel ask how many people were working on the classification review? If so, how and when did they ask? If in written form (e.g. email, letter, memo), please provide documentation.

Did trial counsel ask how much time you were devoting to the classification review process? If so, how and when did they ask? If in written form (e.g. email, letter, memo), please provide documentation.

18 March 2011 Memo

On 18 March 2011, the Government sent you a memorandum asking you to “finalize” your classification review. As of 18 March 2011, how long had you been working on your classification review?

If 18 March 2011 was the date you started your classification review, did you question the trial counsel why they were asking you to “finalize” your review? If so, how? If in writing, please provide documentation.

In the 18 March 2011 memorandum, the trial counsel provides you with a suspense date of 31 March 2011. Did you ever communicate with the trial counsel specifically about the suspense date?

If you did communicate with the trial counsel specifically about the suspense date, what did you say? What did the trial counsel say?

If you did communicate with the trial counsel specifically about the suspense date, how did this communication take place? If in writing, please provide documentation.

If you delegated some or part of the classification review, what did you tell your delegates about the 31 March 2011 suspense date?

Based on dates the trial counsel has provided, you did not meet the suspense date. Is this true?

Did you communicate a reason for not meeting the suspense date to trial counsel?

Did trial counsel ever contact you to ask why you did not meet the suspense date?

In trial counsel's 18 March 2011 memorandum to you, trial counsel writes the following:

“Under Article 10, UCMJ, when an accused is in pretrial confinement, the United States is required to use “reasonable diligence” to continue forward motion on resolving criminal cases. See 10 U.S.C. §810. The only remedy for an Article 10 violation is dismissal of the charges with prejudice. Additionally, the United States must ensure it does not violate the accused's Sixth Amendment right to a speedy trial. See *Barker v. Wingo*, 407 U.S. 414 (1972). All existing and future delays by your department could severely hinder the prosecution.”

Did you read this at the time you received it?

What did you understand this to mean?

Did you communicate this specific portion of the memorandum to your delegates?

If so, what did you tell them?

Did you ever communicate with trial counsel specifically about this portion of the memorandum?

If so, what did the communication involve?

If so, how did the communication take place? If the communication was written, please provide documentation.

Subsequent Memorandums From Government

Other than the 18 March 2011 memorandum, did the trial counsel provide you with further memoranda asking you to complete the classification review?

If yes, please list the dates you received the follow-up memoranda.

What was your view of why the trial counsel was sending you these further memoranda?

Was there a suspense date on the further memoranda? Please specify yes/no for each memorandum you received?

What was the suspense date for each memorandum?

Did you communicate the suspense dates to your delegates? If so, how? If in writing, please provide written documentation.

Did you meet the suspense dates? Explain for each subsequent memorandum.

If you did not meet the suspense date, did you communicate with the trial counsel about your failure to meet the suspense dates? What did the communication entail? Please provide documentary evidence if this communication was in writing.

Did these memoranda include reference to “Speedy Trial”?

If yes, did you communicate with the trial counsel specifically about the reference to speedy trial in the memoranda?

Convening Authority

Were you aware that the trial counsel was requesting delays in the proceedings based on the classification review process being incomplete?

Did you ever prepare a memo or any document for the trial counsel to provide to the Convening Authority explaining the progress made on the classification review? If so, please provide this document or memo.

Did you ever receive any communication from the Convening Authority about the classification review?

Completion of Classification Review

What was the date that you completed your classification review?

How many pages was your review?

What was the date you began producing the written report?

What was the date you completed the written report?

What was the date that you provided your completed classification report to trial counsel?

After completing the report, did trial counsel require your consent to disclose the classification review to the Defense?

If so, when did trial counsel request this consent? When was the consent provided?

Classification Review of Classified Forensic Evidence

* All of these questions pertain to the forensic reviews that were requested prior to the Article 32 hearing in December 2011

When were you asked to complete a review of classified forensic evidence? If multiple dates, provide each date.

How were you asked to review the classified forensic evidence? If in writing, please provide documentation.

What are the dates of the classified forensic reports that you were asked to review? Please provide multiple dates if multiple reports.

Did you personally conduct the review?

If not, who did you delegate the review to? Please provide names and position.

What specifically were you asked to do?

Was there a suspense date provided by trial counsel?

If yes, what was it?

If no, did you ask about the timing of the review?

What was the date you (or your delegates) started the review?

What was the date you (or your delegates) completed the review?

If you delegated any part of the task, list all the ways that you monitored the progress of your delegates?

How many documents did you review?

How many pages did these documents amount to?

How many total manpower hours did you spend on reviewing the computer forensics?

Did you prepare a report?

If so, what is the date of the report? When did you provide it to trial counsel?

If not, how did you communicate the results of the forensic review to trial counsel?

On what day did you inform trial counsel that you had completed your review?

On what day did you consent to disclosure of the computer forensic evidence to the Defense?

What percentage of your time (or the time of your delegates) was devoted to completing this task?

Did trial counsel inform you that your forensic review was necessary to complete prior to the Article 32 hearing?

What, if anything, did they tell you about why you were completing the forensic review?

Did trial counsel ever ask you for updates on the status of your review? If yes, please provide specific dates.

Classification Review of Classified of Classified Information

* All of these questions pertain to classified documents other than the charged documents or reviews of classified forensic reviews that were requested prior to the Article 32 hearing in December 2011

When were you asked to complete a review of classified information? If multiple dates, provide each date.

How were you asked to review the classified information? If in writing, please provide documentation.

Did you personally conduct the review?

If not, who did you delegate the review to? Please provide names and position.

What specifically were you asked to do?

Was there a suspense date provided by trial counsel?

If yes, what was it?

If no, did you ask about the timing of the review?

What was the date you (or your delegates) started the review?

What was the date you (or your delegates) completed the review?

If you delegated any part of the task, list all the ways that you monitored the progress of your delegates?

How many individual classified documents did you review?

How many pages did these documents amount to?

How many total manpower hours did you spend on reviewing the classified information?

Did you prepare a report?

If so, what is the date of the report? When did you provide it to trial counsel?

If not, how did you communicate the results of the classified information review to trial counsel?

On what day did you inform trial counsel that you had completed your review?

Were you ask to consent to disclosure of the classified information to the Defense?

If so, what is the date that you were asked to consent to disclosure of the information?

Did you consent to disclosure?

On what day did you consent to disclosure of the classified information to the Defense?

What percentage of your time (or the time of your delegates) was devoted to completing this task?

Did trial counsel inform you that your review of the classified information was necessary to complete prior to the Article 32 hearing?

What, if anything, did they tell you about why you were completing the classified information review?

Did trial counsel ever ask you for updates on the status of your review? If yes, please provide specific dates.

Department of State Specific

Did you have any involvement in selecting or opining on the charged documents?

All the following questions assume that the answer is “yes”:

What did the trial counsel ask you to do?

When did trial counsel ask you to do this?

Did trial counsel give you a suspense date?

If not, did you ask for a suspense date?

When did you complete whatever task the trial counsel asked you to do?

How many total manpower hours were devoted to completing this task?

Army G-2 Specific

Did you have any involvement in selecting or opining on the charged documents?

All the following questions assume that the answer is “yes”:

What did the trial counsel ask you to do?

When did trial counsel ask you to do this?

Did trial counsel give you a suspense date?

If not, did you ask for a suspense date?

When did you complete whatever task the trial counsel asked you to do?

How many total manpower hours were devoted to completing this task?

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Civilian Defense Counsel